

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office
Phone (415) 355-7900 Fax (415) 355-8566
<http://www.ca9.uscourts.gov/mediation>

MEDIATION QUESTIONNAIRE

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are *not* confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

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|--|---|----|--------------------------------------|
| 9th Circuit Case Number(s): | 14-15959 | | |
| District Court/Agency Case Number(s): | 3:12 CV 06002 RS | | |
| District Court/Agency Location: | United States District Court, Northern District of California (San Francisco) | | |
| Case Name: | Andrea Golloher, et al. | v. | Todd Christopher International, Inc. |
| If District Court, docket entry number(s) of order(s) appealed from: | 79 | | |
| Name of party/parties submitting this form: | Violet Hignite | | |

Please briefly describe the dispute that gave rise to this lawsuit.

Plaintiffs brought a class action against the defendant for false and misleading marketing, false advertising, and deceptive labeling of its Organix brand of products. The Organix products are marketed and labeled as "Organix," a name chosen to look and sound like the word "organics" in order to represent the products as organic. The marketing materials for the Organix products contain statements that represent the products as organic, and the front and back labels of some of the products state that the products contain organic ingredients. The products, however, are composed almost entirely from ingredients that are not organic.

Briefly describe the result below and the main issues on appeal.

The district court approved a proposed class settlement and dismissed the case with prejudice.

The main issues on appeal are: (1) is the cy pres payment appropriate if remaining funds are not paid to class members but instead paid to charities whose work goes far beyond the claims in this case?; (2) is the settlement fair to class members with timely claims even though the settlement allows for the payment of class funds to class members whose claims are time-barred?; (3) is the designated fee for class counsel too high when the attorneys spent far less time than awarded and there is no way to evaluate the claimed time spent?; (4) is the release overbroad because the settlement agreement provides a release for all advertising and marketing claims although the claims at issue pertain only to the organic issue?

Describe any proceedings remaining below or any related proceedings in other tribunals.

There are no proceedings remaining below, and currently no proceedings related to this matter in other tribunals.

Provide any other thoughts you would like to bring to the attention of the mediator.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses is attached
☒ (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list
☒ may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

Note: Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **To file this form electronically in Appellate ECF**, complete the form, and then print the filled-in form to PDF (File > Print > PDF Printer/Creator). Then log into Appellate ECF and choose Forms/Notices/Disclosure > File a Mediation Questionnaire.

FED. R. APP.P. 12(b) AND CIRCUIT RULE 3-2.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above **MEDIATION QUESTIONNAIRE** was served on May 20, 2014 upon the attorneys of record for each other party through the Court's electronic filing service.

DATED May 20, 2014.

By: /s/ Steven B. Scow
STEVEN B. SCOW, ESQ.